THE DEPUTY CHAIRMAN: I have to put it to the House that permission be granted to him.

(*The Resolution was, by leave, withdrawn*)

THE DEPUTY CHAIRMAN: Permission is granted to him to withdraw the Resolution and also to withdraw from the House.

SHRI S. JAIPAL REDDY: He should not be allowed to leave.

THE DEPUTY CHAIRMAN: Now, Mr. Madan Bhatia, please

भाटिया जी, सिर्फ एक घंटा है पूरे बिल के लिये एक घंटा आपका और दूसरे सब लोगों को मिलाकर है। (*Interruptions*) Mr. Bhatia, before you speak, there are two Messages from the Lok Sabha.

MESSAGES FROM THE LOK SABHA

(1) The Appropriation (Vote on Account) Bill, 1994.

(2) The Appropriation Bill, 1994.

SECRETARY-GENERAL: Madam, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:

(1)

"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Appropriation (Vote on Account) Bill, 1994, as passed by the Lok Sabha at its sitting held on the 17th March, 1994.

The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES AMENDMENT BILL, 1994.

SHRI MADAN BHATIA (Nominated): Madam Deputy Chairman, I rise to support the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Bill, 1994.

There is one point which was made by Mr. Viren Shah and the Member who initiated the discussion. They said that in this Bill, it is provided that the Special Court shall not be bound by the Code of Civil Procedure and shall be at liberty to regulate its own procedure. According to them, this is a new precedent and it is not clarified as to what procedure the Special Court would follow. I would like to say this to the hon. Members that there is a difference between the procedure relating to criminal matters and procedure relating to civil matters. So far as the criminal matters are concerned, procedure is very vital. it was Justice Frankfruteur of the United States who observed and whose observation was quoted with approval by the Supreme Court that history of liberty is the history of strict observance of procedural safeguards. This applies to trial of criminal offences. But so far as civil matters are concerned, the position is quite opposite. The Supreme Court has held that the rules of procedure prescribed in the Code of Civil Procedure are merely a handmaid of justice, they cannot be allowed to override the ultimate administration of justice. They are subordinate to the ultimate aim in civil matters, that is, to administer justice according to the facts of the particular case.

SHRI VIREN J. SHAH: Then, why is it necessary to bring in this amendment?

SHRI MADAN BHATIA: This particular provision, the hon. Member is very right, may herald a new concept in relation to decision in civil matters. I for myself am strongly of the opinion that so far as the trial of civil cases is concerned, it should not be sine qua non to something called the rules prescribed

in the Code of Civil Procedure and this is exactly what the Supreme Court says, in spite of the fact that there is a Civil Procedure Code. I hope that this will set the ball rolling to make the procedure regarding the trial of civil cases very flexible and leave it much to the discretion of the courts to deal with the particular situation or the particular questions which arise before the court according to the dictates of justice.

Having said that, I would submit, Madam, that so far as this Bill is concerned, this Bill only fills up one lacuna which was in existence in the existing Act, that is, so far as the Special Courts which were constituted under the Act were concerned, they were given the jurisdiction to deal with criminal cases arising out of the securities transactions. That criminal jurisdiction remains the same. So far as the civil jurisdiction of the Special Courts was concerned, it was confined only to two matters. One where the Custodian attaches the property of a person who is involved in some such offence and that person wants to challenge the correctness of that order of attachment. He can go to the Special Court and say that this order is not correct.

The second jurisdiction which was given to the Special Courts with regard to the decisions of the Custodians was where the Custodian is of the opinion that any particular contract or any agreement relating to a property of such persons has been entered into by way of misrepresentation and fraud in order to escape the rigours of the securities offence then he may make an order cancelling this contract or this agreement. And the Special Courts were given the power to hear a representation from the person who is affected by the cancellation of this contract or agreement. Now the lacuna was this that supposing there is a litigation or a civil suit pending in any court relating to the property which has been attached or in relation to which an order has been made by the Custodian cancelling an agreement or a contract, now there is a litigation pending in a Civil Court. That litigation will remain with that particular court. That Special Court cannot decide that litigation. The Special Court's jurisdiction was limited only to these two aspects, to see the correctness of the order made by the Custodian while attaching the property or to see the correctness of the order made by the Custodian cancelling a contract. But the Special Court could not decide the litigation relating to the property which was pending in any other court. This lacuna is now sought to be filled. The Special Court has been given the exclusive jurisdiction not only to deal with the correctness of the order made by the Custodian but also finally to decide any litigation, any dispute, relating to this property which has been attached by the Custodian or in relation to which any agreement or contract has been cancelled by the Custodian. All such cases relating to this property shall stand now transferred to the Special Court or any other court where where they are pending. This is a very remarkable change which has been made and which was necessary to be made. Otherwise the orders of the Custodian would have become infructuous on account of the pending litigation in other Civil Courts.

SHRI VIREN J. SHAH: Would you address yourself to the other point also? Why could it not be anticipated by the Law Ministry two years back?.. (*Interruptions*)...

SHRI MADAN BHATIA: I am on the Bill, I am not on the Law Ministry.

THE DEPUTY CHAIRMAN: Now I don't know if you are withdrawing your Resolution, but I think you are withdrawing your right to question!.. (*Interruptions*).

(The Vice Chairman (Shri V. Narayanasamy) in the Chair)

SHRI MADAN BHATIA: Secondly, there may be disputes which may have been there in relation to this property

under the Arbitration Act, and those disputes have to be pending before the Arbitration Courts. There may be arbitration clauses some awards may rave been delivered or some challenges may have been made with regard to the arbitration clauses. Now all those disputes will also be decided by the Special Courts. So, in other words, the jurisdiction of the Special Courts with regard to the property which has been attached by the Custodian has been made all-embracing, covering the entire litigation also which may be pending in any court in any form in relation to this property. And it was also very necessary in view of the importance of this property of the persons who are involved in these offences relating to the securities, because ultimately if these persons are found guilty and the money can be recovered only from their properties. If these properties remain under litigation this money could not be recovered. That litigation would have taken 20—30 years to decide. It was very necessary that the whole procedure of the Special Court relating to the decision on litigations in connection with these properties could be made very informal subject only to one basic condition regarding the administration of justice i.e. the principle of natural justice: that no order shall be made which will affect only one person without giving him a full opportunity of representation and hearing and producing whatever evidence he wants to produce. In civil matters this should be the criterion. If a man comes before the court, raises a dispute, he should be given an opportunity to say what his case is and what his claim is. He should be given a full opportunity to produce his evidence. Beyond that all are the rules of procedure The rules of procedure should not be allowed to govern the basic thing i.e. the claim should be disposed of in accordance with the dictates of justice. The only principle that is involved is that he should be given a fair hearing. That is why the principle of natural justice has been provided.

One point was made by the hon. speaker regarding Section 123 and Section 124 of the Indian Evidence Act. In fact, these two sections have been very elaborately discussed by the Supreme Court in various judgements. The Supreme Court has held that it is only in extreme cases that these official communications or official record may be of such a category that confidential privilege may be allowed to these documents. The Supreme Court has given an example of the minutes of the Cabinet meetings. But it is not applicable to ordinary matters. My learned colleague's apprehension in view of the law which has been laid down by the Supreme Court is not justified, because the Supreme Court has gone very far in holding that this privilege can be claimed only in very very extreme cases, where, for instance, defence and security of the country are involved. Not otherwise. In fact, the first break in the decision of the law took place in the Raj Narain vs. Mrs. Indira Gandhi's case, where these two sections were discussed. There the Supreme Court discussed the entire law. The Supreme Court referred to the various judgements of the House of Lords also. There the Supreme Court said that the court also has the right to examine whether the privilege which is being claimed with regard to any particular evidence, communication or documents is justified or not. This was a new break which was made by the Supreme Court.

With these words I fully support the Bill.

SHRI W. KULABIDHU SINGH (Manipur): I support this Bill with certain reservations only. The bringing into operation of certain litigations pending in civil courts relating to any property can be attached under Section 3. So, as pointed out by the learned hon. colleague, Mr. Bhatia, this litigation regarding property in civil courts involves a lengthy procedure and a lot of expenditure and time. This Amendment Bill will do away with this lengthy procedure and will be helpful to litigants.

I also endorse this addition of Section 9A and Section 9B, excepting sub-section 5(i) Nomination or appointment of judges in place of absenting judges either because of death or leave or any other rea-

son can be made by the Chief Justice of the High Court in consultation with the Chief Justice of the Supreme Court of India.

7 00 p.m.

Sir, the clause relating to filling in vacancies in the Special Courts to be done by the Chief Justice of the High Court of the area concerned in consultation with the Chief Justice of India is a very benign clause and we can expect justice from such a new appointee also.

Regarding suit, claim or other legal proceedings pending in civil courts, if it is brought in as was pointed out,—before the commencement of the new Act of 1994, the original Act of 1992 was intended for trial of criminal cases only—now if any claim or sult regarding the property attached by the custodians is brought within the jurisdiction, within the ambit of the power of this court, then speedy trial will be there and natural justice will be rendered. Now natural justice is more conveniently served by the Judges of the rank of Judges of the High Court and the Supreme Court. If we give the power of natural justice to a district collector or a district magistrate or registered district magistrate for speedy trial, we cannot expect this rule of law to operate to its true extent. But by giving such powers in trials in a summary manner by the Judges of the rank of the High Court we can expect justice from them.

My reservation is mainly regarding clause (i) of sub-section 5 of Section 9A. I endorse it that the power of civil court issuing summons, the power of enforcing attendance and about the nature of receiving evidence by affidavits, all these things are quite good for speedy trial. But in Section 5 Clause (1)—"any other matter which may be prescribed by the Central Government"—under sub-section so and so—is very irritating to me at least when the Judges of the rank of the High Court Judges are trying cases and the powers within their jurisdiction or ambit are defined in this Act. If we accept this clause, that too when the Judges of the rank of the High Court Judges are trying the cases, for proceedings by allowing summary procedure prescribed by natural justice, this overpower allowed to the Central Government will serve as a road-block to the discharge of justice. Accepting empowerment of the Central Government to prescribe any procedure, by and large, I do endorse this amendment. Except these few exceptions, I support this Bill by and large.

SHRI JOHN F. FERNANDES (Goa): Thank you, Mr. Vice-Chairman, Sir, I rise to support the Special Court (Trial of Offences relating to Transactions in Securities) Amendment Bill, 1994. This Bill is already promulgated as an Ordinance and it has the sanctity of law from January, 1994. We think the securities scam was the biggest scam the world has ever seen. It involves Rs. 5,000 crores of a poor country like India. And we blame the system. We make the system the scapegoat. To tell you frankly, it was the human failure, but we blame the system. We have the best Constitution in the World. We have copied the constitutions of seven countries. We have the best Constitution. At the same time, we have poor governors. We have the best laws in the world but, at the same time, there is no justice. I think there is something wrong with our society. Whenever there are any failures here and there, we totally blame the system. The Indian banking system is the only banking system which was not computerised. The Finance Minister has again and again said that. I don't know how we can put the blame on the system. We cannot blame the computers. We have to blame only the human failures. I don't want to go into the details because my colleague, Mr Madan Bhatia, has already explained them. I think this Special Court Bill will create a new case history in the country. It is for the first time that we have such a powerful court which has got double jurisdiction. It has jurisdiction to try criminal cases. By this Bill it has jurisdiction to try civil cases. It has also further jurisdiction to transfer cases pending before any court of arbitration. So, I think it is one of the best Bills which

will create a history in the legal jurisprudence of the country. We have a Code of Civil Procedure. It is a Code of 1908. It is a Code enacted by the colonial masters. We stick to these old laws because they suit us since there are a lot of loopholes in them. I think it is high time that we revamped our laws. We have also got a CWD Manual which dates back to 1885. I think we retained all the laws but those countries, the colonial masters, which ruled us have changed their laws. It is high time that we revamped our laws. The Finance Minister has just now said while replying to the Budget that the clearance of a cheque in our country takes 21 days. I don't know how long it will take for us to change our system though we learned it from the scam. I think the Government will rise to the occasion. I don't want to go into the legal implications as Mr. Bhatia has explained them. This court is situated in Bombay. The jurisdiction of this court throughout the country, not in Bombay High Court. The scam was committeed throughout the country, not in Bombay alone. The jurisdiction of this court has to be increased to a larger extent. I hope the hon. Minister will take this point into consideration. The last point is that this Special Court is a super court. But no time-frame is fixed. We have set up a Special Court. But we have not fixed any time-frame. The Indian stock market is picking up very well. We have a lot of foreign investment in our country. The NRIs are investing in our country. What is required is a confidence in our system. Only quick disposal of the cases by the Special Court will instil confidence in our system.

SHRI ASHOK MITRA (West Bengal): Mr. Vice-Chairman, if there are lacunae in the existing legislation and their removal will help to speed up the proposals of prosecution and conviction of the culprits, I surely welcome it. But we ought to certainly record our disapproval of the principle of issuing Ordinances. There was absolutely no necessity. The Government had time in the month of December to move a Bill. But it did not do so. It indicates the Government's slipshodness and its contempt for Parliament.

When we get to the substance of the Bill, I feel some uneasiness about the limitation in section 9A where they tried to put certain limitations on time in regard to prosecution of cases. The first limit is 1st of April, 1991 and the final limit is 6th day of June, 1992. I have listened to the discussion on the JPC Report. I have listened to the Members of the other side. They claimed that this whole business of scam started much earlier than 1991. Why do you shy away from facing the reality? What is so sacrosanct about this date, 6th June? Are some arrangements being made to left out some people? I don't know. An outsider can raise this question. I would certainly support Shri Gurudas Das Gupta's amendment, at least, to get rid of the later limit. Whether the prosecutions are successful or not, it would not depend on judges or courts The prosecutions would be successful only if the investigating agencies do their job. It depends upon the attitude and mood of the Government. Is the Government serious about it? Then some questions can be raised like how many people have been arrested and how many have been prosecuted and what the stage of inquiry is that is going on, etc. These are all issues which are important. We would certainly want some reply, some response from the Finance Minister. There should be some assurance from him that the net would be wide. I hope that the culprits in the foreign banks operating in this country would not be left out.

SHRI S. S. SURJEWALA (Haryana): Mr. Vice-Chairman, Sir, the concept of Special Court is not new in this country. When the offence is very special, it is natural that only the Special Court can do the trial. As far as amending the Special Court Act, 1992 is concerned, many Members have already mentioned that this is done to fill up the lacunae which were being faced by the Special Court. It is done to make the laws more comprehensive. Sir, the securities scam was being tried in this Court. It mostly covers the aspects of civil nature or civil offences. So, it was very necessary to give this Court power so that it can do full justice in this matter. Therefore

the provisions, which have been made, are very necessary. I think, no party in this House would oppose this Bill.

Sir, I would like to mention that through this amendment Bill the CPC is being side-tracked because the provisions of the CPC would not be applicable to the trial by the Special Court. Already, thousands and thousands of cases are getting piled up in all the lower courts and High Courts and also in the Supreme Court because of the Civil Procedure Code. It is very complicated. It gives a lot of leverage to the people who do not want the cases to be decided. They can certainly prolong the cases. It is a common experience that sometimes a civil litigation is prolonged for 30 to 60 years. Therefore, it is very necessary that the Special Court should not be bound by any code like the Civil Procedure shou ldnot be allowed to be used ernment should make a thorough and complete study to make the Civil Procedure Code really comprehensive so that it can suit the present conditions. Now, this country is facing the challenges of the economic offenders. All the laws governing economic offences should be strictly enforced. The Code of Civil Procedure should not be allowed to be used as a handle by these offenders. If such a thing happens, it will be a very sad day for this country. Therefore, I would urge upon the Minister that, besides, abandoning the Code of Civil Procedure, the Judges who preside over these Courts. should be given better emolument. Their working conditions, their pay and perks need to be improved. Presently, these are so meagre that they fall prey to temptations. We have a powerful mafia functioning in the country. We have a large number of economic offenders in this country and many times these people succeed in subverting law and go scot free. There is a need to amend the present Code of Civil Procedure so as to change the service conditions of the Judges and also to make the law more stringent Pronomic offences pose a great danger to the country. We can take the examples of countries like Singapore and others which have liberalised their economies. These countries have very stringent laws. Nobody can go scot free. We should emulate these countries. We should try to adopt such laws so that the culprits can be brought to book. Thank you.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Hon. Members, as we are sitting late to pass various Bills pending before the House, dinner has been arranged for the benefit of Members, officers and staff of the Rajya Sabha in Room No. 62. The dinner will be provided from 7.30 PM and you can avail this facility.

SHRI MISA R. GANESAN (Tamil Nadu): The objects and reasons of the Bill state that in order to give more powers to the Special Court which was set up in 1992 for trying cases relating to irregularities in security transactions of banks and financial institutions, it was necessitated to bring forth such a legislation. The Bill provides among other things the following powers: (i) transfer of pending civil proceedings in any court to the Special Court; (ii) it vests the court with jurisdiction in relation to the Arbitration Act of 1940; (iii) it also empowers the Special Court with powers to award punishment for contempt of its orders. After the promulgation of the Ordinance on 25th January, 1994, a new point was raised before the Special Judge as to whether he was empowered with powers to try bank officials and the brokers who had abetted them in the multi-crore securities scam. The CBI Counsel argued that the Bill would encompass all offences relating to security transactions and as such all offences under any law could be tried by the Special Judge. It was also argued that the Special Court must prevail over the provisions of Corruption Act 1988 because of the non obstante clause in Section 7 of the Special Court Act and also because of the provision of Section 13 of the Act. It was said that Section 13 over-rode the provisions of all Acts in force and the Special Court alone was empowered to try any offence committed during the period between April, 1, 1991 and June 6, 1992—the period covered by the Special Court Act. The other side of the argument was totally different. It said that the Pre-

vention of Corruption Act was a special statute and it had a non obstante clause in Section 4. Hence, a Special Judge was appointed under the Prevention of Corruption Act who could try offenders for offences concerning security transactions. The Special Court Act 1992 was a general statute and the Prevention of Corruption Act could prevail over the Special Court. The present Judge, as he was not appointed under the Prevention of Corruption Act had no jurisdiction to try cases against bank officials as also the brokers who were alleged to have abetted the bank officials. Sir, this is the position now. So, my question is: Why wasn't a comprehensive Bill covering all these aspects brought in at the very inception itself? Sir, anyway, I support this Bill, I only wish that they would come out with a comprehensive Bill in this regard.

SHRI S. MUTHU MANI (Tamil Nadu): Sir, thank you for giving me an opportunity to speak on this Bill.

Sir, on behalf of the AIADMK, I rise to oppose this Bill because it seeks to undermine the basic tenets of the Code of Civil Procedure. The Special Court may tend to go beyond its parameters thus creating legal problems. The very purpose of setting up the Special Court was to render justice through speedy trial. But the intention was not to give any special powers in excess of the powers laid down under the Code of Civil Procedure Code, 1908. The Minister said that the Special Court set up in Bombay faced certain problems when it functioned outside the ambit of the Code of Civil Procedure. I can understand that justice delayed is justice denied. But at the same time, the Government should not cut short the procedure as established by law. I am afraid that such vast powers given in the name of natural justice would make it a parallel High Court. This trend may create a lot of confusion in the judicial system. While enacting a law of this magnitude, the Government should forsee things and not go in for short-term solutions to the legal problems.

I also have a specific point to make. Section 5 (2) says: "A Judge of the local High Court shall function as a Special Judge in the absence or leave of the Special Court. But the duration of such leave or absence, for which this vacancy can be temporarily filled, has not been mentioned. I hope the Minister will clarify this point. Sir, since this Bill is against the basic norms of justice as established by law in a democratic system, I oppose this Bill.

SHRI GURUDAS DAS GUPTA (West Bengal): Sir, to me, this amendment is really puzzling I have reason to believe that this Bill has been brought forward to plug a loophole in the original Act that was enacted. But this Bill, to me, is puzzling in the sense because in page 2, a particular cut-off date has been given and the date being the 6th day of June, 1992. I fail to understand as to why this particular cut-of date is there... (*Interruptions*) This might rave been in the original Bill. But this is where the real problem arises. It is because if something has happened after the 6th of June, 1992, that crime does not come within the purview of the Special Court. If the hon. Minister of Finance will kindly recollect, Nalco, which is a leading public sector undertaking, had invested about Rs. 195 crores in the Andhra Bank Financial Services. The whole money was diverted to the brokers and, with that money, the stock market was played up. The Chairman of the Nalco has been arrested and the CBI proceedings are going on. Now, if the cut-off date is allowed to remain at the 6th day, of June, 1992. then this particular case will not be heard. Secondly, we may not have forgotten the Report of the JPC. The hon. Finance Minister may kindly remember that Mr. Shankaranand,—the the hon. colleague of Shri Manmohan Singh—was indicated by the JPC on a particular transaction and that transaction took place subsequent to this date. The transaction that was carried on by Mr. Shankaranand. as the Chairman of the OTDB. took place in the montr of August. Therefore, the case of Mr. Shankaranand or the drime. if I so put it like this, does not come within the purview

of the Special Court. If I should add something more to the list, then it is the National Housing Board and the Stanchart problem... (*Interruptions*)

THE MINISTER OF FINANCE (SHRI MANMOHAN SINGH); The hon. Member is accusing a Cabinet Minister of a crime. Is it proper for him to do that?

SHRI GURUDAS DAS GUPTA; Sir, what I am saying may hurt him; of course, it does hurt him...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Mr. Gurudas Das Gupta... (*Interruptions*)

SHRI GURUDAS DAS GUPTA: It is true that the JPC has criticised his failures and lapses.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Mr. Gurudas Das Gupta, would you please hear me?

SHRI GURUDAS DAS GUPTA: Mr. Vice-Chairman, Sir... (*Interruptions*) Mr. Shankaranand has been criticised. To me, criticism is tantamount to committing irregularity.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Mr. Das Gupta.. (*Interruptions*)

SHRI GURUDAS DAS GUPTA: And that case of irregularity cannot be brought now...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Would you please hear me? Actually, you are a member of the JPC.

SHRI GURUDAS DAS GUPTA: So what?

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): You kindly hear me. Secondly, the report has been submitted to the Government. It is under the consideration of the Government. Therefore, kindly refrain from making any comments. Kindly speak on the Bill only.

SHRI GURUDAS DAS GUPTA: Why, Sir? (*Interruptions*)

SHRI MENTAY PADMANABHAM (Andhra Pradesh): The hon. Member is competent to quote from the JPC report. There is nothing wrong in it.

SHRI RAM NARESH YADAV (Uttar Pradesh): The question here is... (*Interruptions*)

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): The JPC report has been discussed in this House elaborately by the hon. Members. Therefore, it need not be discussed. (*Interruptions*)

SHRI MADAN BHATIA: On what the JPC said, there was a discussion in the House, and the gentleman whom he is referring to, had the right to defend himself, and he defended himself. Now, we are discussing a Bill. Under the discussion of the Bill, he cannot make attacks upon those persons who have no right to defend themselves. He is very wrong. He is going completely out of the way.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Please confine yourself to the Bill.

SHRI GURUDAS DAS GUPTA: Sir, I am only guided by my own conscience.

SHRI MADAN BHATIA: This is very unfair.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Mr. Bhatia, I already told him to confine himself to the Bill.

SHRI GURUDAS DAS GUPTA: Sir, I am only guided by my own conscience. What I am submitting is this.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): No, no. You kindly confine yourself to the Bill.

SHRI GURUDAS DAS GUPTA: I am only responding to the matter that has been raised. This is a Special Court. The Special Court is likely to discuss the irregularities.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Now, your time is over.

SHRI GURUDAS DAS GUPTA: And the irregularity that has been referred to in the investment of OIDB cannot be brought in now.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Kindly conclude.

SHRI GURUDAS DAS GUPTA: This is the second point. The third point I am submitting is that the Standard Chartered and the National Housing Bank also cannot be covered. (*Interruptions*) Therefore, Sir, I submit that the cut-off date has deliberately been given in order to exclude the jurisdiction of the Special Court with regard to certain important irregularities that had been committed and that had been commented upon. This is my first point.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): You kindly conclude. Yot have taken more than six minutes. Now you have to conclude.

SHRI GURUDAS DAS GUPTA: My time has been taken away by my hon. friends...

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Your time is only four minutes.

SHRI GURUDAS DAS GUPTA: My second point is this. I take this opportunity to tell the country that if the scam is shameful for the nation, then the subsequent development is also more shameful. I take this opportunity to elicit from the hon. Finance Minister as to why the investigation with regard to the payment of Goldstar has not yet been started. I would like the hon.Finance Minister to tell me... (Interruptions)

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Mr. Gurudas Das Gupta, I have already told you... (*Interruptions*)

SHRI GURUDAS DAS GUPTA: Why is the hon. Minister worried? (Interruption)

SHRI MANMOHAN SINGH: It is already with the CBI. (Interruptions)

SHRI GURUDAS DAS GUPTA: I am saying that the investigation with regard to a Gold Star has not started because the Government of Andhra Pradesh has not given the permission to go ahead... (*Interruptions*)

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): That will not go on record. You have taken more time and you have to confine yourself to the Bill. I am calling Mr. Padmanabham.

SHRI GURUDAS DAS GUPTA: I am only saying that the investigation with regard to the scam cases is being deliberately delayed, and in the case of some very important persons, it is not being done. Therefore, it only indicates how shameful is the development in post-scam period.

SHRI MENTAY PADMANABHAM (Andhra Pradesh): I support the Bill except on two or three points because I don't find it very objectionable. Let me say that the amendment moved by Mr. Gurudas Das Gupta is also in the spirit of fulfilling the objectives of the Bill. I am really unhappy at the way my friends from this side reacted to the amendment of Mr. Gurudas Das Gupta, because the whole objective of the Bill is to bring all those culprits responsible for the irregularities and the scam, to face the court and get a free and, fair trial. That is the whole object of the Bill. Keeping this objective of the Bill in mind, I feel that the amendment moved by Shri Gurudas Das Gupta is in consonance with the spirit of the Bill. If there is any technical objection, I can understand it. I need not say much about it.

A lot of public money is involved in the scam. I am not sure of my figures. Let the Finance Minister enlighten us. about Rs. 45,000 crores of public money are involved... (Interruptions). I said I am not sure of the figure, and that the Finance Minister should enlighten us. I think, an amount of nearly Rs. 8,000 crores is involved in the banking scam and about Rs. 36,000 crores are involved in irregularities in the public sector investment...(*Interruptions*) Let us not worry about the JPC. I know what you talked of the JPC after the finalisation of the report and the JPC should be ashamed of this. There were members from the Congress Party and I think they should be ashamed of the way

the Government treated the JPC report. I would like to appeal to the Government. Let them come out clean. Let them bring out everybody who is involved in the scam whatever be his culpability or whatever be his irregularity. Let them be brought before the court and let the court be an exampiary court and bring out what has happened in the country which was something shameful for the entire nation.

PROF. SAURIN BHATTACHARYA (West Bengal): The allegation that proper action has not been taken on the basis of the JPC report looking at the extent of the irregularities in securities transactions. It is because of these elements that the economy of the country had to suffer and thousands of crores of rupees were lost affecting millions of investors who are now suffering. When I say 'thousands of crores' it does not mean just four thousand or six thousand crores. As has been pointed out, there is the possibility of a much larger amount involved. It is also accepted on all hands that the entire economy had to bear the brunt of it, and I can't say whether it was the Finance Minister or the Finance Ministry which was responsible. I would ask the Finance Minister whether he is still in his self-congratulatory mood because of this performance of his Ministry which has landed the coutry into this. It is very difficult to say whether this Bill would bring the offenders to book, who have not been brought to book so far, barring a couple of persons. Really, the *bona fide* is in question after the way the unanimous J.P.C. Report was assailed in both the Houses of Parliament by the ruling party. (Time-bell) With this record Mr. Vice-Chairman, if there is some hesitation in taking the Government for its own word, I think nobody should be blamed.

Therefore, I think the Government would do well to accept the amendment proposed by Mr. Gurudas Das Gupta. I wholeheartedly support it. If it is accepted, if this constraint is removed in that case, perhaps, it might have served its purpose.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Now, the hon. Minister to reply to the debate.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI M-V. CHANDRASHEKHAR MURTHY): Mr. Vice-Chairman, Sir, I am thankful to the hon. Members who have participated in this discussion. I also thank the mover of the Resolution, Mr. Viren Shah—he is not present now. Ultimately, he withdrew his Resolution.

Sir, while moving his Resolution, Mr. Viren Shah raised the point about the circumstances which led to the promulgation of this Ordinance.

SHRI H. HANUMANTHAPPA: He is not here now. (*Interruptions*)

I would like to submit that during the course of trial of cases filed before the Special Court, some persons filed applications challenging the Court's jurisdiction and powers to try certain cases. Further, the Special Court was not in a position to dispose of certain cases for want of adequate jurisdiction and powers. Hence, this Ordinance was promulgated. In addition to this, the objective of this Ordinance is for the speedy trial of these offences and to prevent any diversion of properties of persons responsible for the irregularities and loss of funds of bank and other institutions.

Sir, today, we have come before the House only with a limited purpose. The amendment proposed by the Government to the 1992 Act is to confer civil jurisdiction on the Special Court for deciding matters relating to properties, transactions in securities. Secondly, to provide for transfer of all pending cases pending civil proceedings in related matters to the jurisdiction of the Special Court. This provision is necessary for the speedy determination of

civil claims which may be pending in other civil courts. Thirdly, to provide for the jurisdiction of the Special Court in relation to all aspects concering the Arbitration Act. Fourthly, to enable the Special Court to devise its own procedure—this is most important following the principle of natural justice, without being bound by the Code of Civil Procedure. This provision is necessary for the speedy and expeditious adjudication of such cases pending before it. Fifthly, to provide for alternative arrangements in the event of leave or absence of a particular judge. This will be done by the jurisdictional Chief Justice of the High Court, in consultation with the Chief Justice of India. This is to avoid delays in disposal of such cases. (6) To provide for punishable contempt of court of its own order. These tempt of court of its own order. These Courts are noted for effective functioning of the courts and speedy disposal of such cases.

Madam, Shri Gopalsinh Solanki and Shri Ashok Mitra, who participated in the debate, wanted to know the number of cases filed as on 16-3-1994. Five hundred and six miscellaneous applications and 167 miscellaneous petitions have been filed. The CBI has registered 47 FIRs. Also as on 10-2-1994 the approximate value of the property attached is Rs. 2115.34 crores.

Hon. Gurudas Das Gupta has alleged that the Government has deliberately avoided the cut-off date. This is not correct because the Special Courts Ordinance, 1992, was promulgated on 6-6-1992. This Ordinance, was laeer on converted into an Act. This Ordinance covered offences regarding two transactions in securities after the 1st day of April, 1991, and on or before the promulgation of the above ordinance. Regarding the cut-off date, the Law Ministry was consulted. The date 1-4-1991 was fixed on the advice of the Law Ministry who opined that the Special Courts are generally set up for handling cases relating to offences commited during the particular period which are required to be decided within a specific time-frame.

SHRI MENTAY PADMANABHAM (Andhra Pradesh): You extend the time and make it 1994.

SHRI M. V. CHANDRASHEKHAR MURTHY: Madam, I have already pointed out that for the speedy trial of such offences amendment of the earlier Act is required, I, therefore, request the hon. Members to pass this Bill unanimously.

THE DEPUTY CHAIRMAN: Now, as the Resolution was withdrawn already, I would put the motion. The question is:

That the Bill to amend the Special Court (Trial of offences Relating to Transactions in Securities) Act, 1992, as passed by the Lok Sabha, be taken into consideration.

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clatse consideration of the Bill. There is one amendment by Shri Bhandara in Clause 2.

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): Madam, this is a very welcome amending Bill which provides for a summary procedure and it proceeds on the main principle that procedure is only handmaid and not mistress of justice. There is one thing about which if I get an assurance I may not move the amendment. By this amendment what is sought to be done is that every suit, claim or legal proceedings which are pending in any court, are now sought to be transferred to the Judge. There is a provision of only one Judge. Justice Variava has done exemplary work and I must take this opportunity of complimenting him. (*Interruptions*). Despite the fact that the hon. lady Minister is quite restless. I must point out that you have provided only one single Judge. If our whole intention is for speedy disposal of the cases, there may be an occasion... when we may require

more than one Judge? May be there is obvious lacuna in the Act when you provided for one sitting Judge. Therefore, I thought of amending it by providing one or mroe sitting Judges. But if the hon. Finance Minister is conscious that the work-load which is going to go to him is to be transferred to the Special Judge, well, I will not move it.

THE DEPUTY CHAIRMAN: So you have not moved it. I shall now put clause 2 to vote.

The question is:
"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

THE DEPUTY CHAIRMAN: We shall now take up clause 3. There is one amendment by Shri Gurudas Das Gupta.

Clause 3—Insertion of new sections 9A and 9B

SHRI GURUDAS DAS GUPTA (West Bengal): Madam I move:

"That at page 2. line 12, *after* the figure "1992" the words "or even thereafter" be *inserted*. (No. 2)

Madam, I am moving this amendment because I thought this cut-off date is arbitrary and the cut-off date involves exclusion of a number of cases, a number of crimes, a number of irregularities outside the purview of the court. On this occasion I can just draw your attention to one thing. Harshad Mehta was arrested on 4th June, and the cut-off date was 6th of June. But it has come to our knowledge—and it is common knowledge—that a number of crimes have come to the surface even after that, a number of crimes had taken place after this cut-off date. Therefore, I only request the Government to kindly consider that this cut-off date may be extended a little more. If the Government agrees to extend the cut-off date, then I am in a mood to withdraw the amendment. If the Government does not do it, then there appears to be a *mala fide* intention of excluding... (*Interruptions*)...

THE DEPUTY CHAIRMAN: There is no need ... (Interruptions)...

SHRI GURUDAS DAS GUPTA; I should be allowed to speak freely Madam, if the intention of the Government is no need... (*Interruptions*)...

THE DEPUTY CHAIRMAN: Mr. Desai, he has moved his amendment. As per the rules he has a right to speak and he has spoken. I will put the amendment to vote.

SHRI GURUDAS DAS GUPTA: Madam, I want a division.

THE DEPUTY CHAIRMAN: If you like the colour of the lights it is okay, but the time of the House is going to be wasted.

SHRI GURUDAS DAS GUPTA; Sometimes time is less important than the interests of the nation.

THE DEPUTY CHAIRMAN: All right. Let the division bell be rung... (*Interruptions*)...Now you have said... whatever you have said... (*Interruptions*)...

SHRI VISHVJIT P. SINGH (Maharashtra): Madam, in the past when the Government brought in an open-ended legislation... (*Interruptions*)

THE DEPUTY CHAIRMAN: The bell is ringing. You can't sit in a vacuum. Somebody has to speak.

SHRI VISHVJIT P. SINGH; In the past when the Government brought in an open-ended legislation without a cut-off date, the Opposition demanded a specific date and that there should be a cut-off

date because, if there was no cut-off date, the legislation would be used to hound the people. That is the argument that has been put forward from the other side. I have heard it myself. Today the very same people have argued that the cut-off date should be extended. It is amazing.

...(*Interruptions*)...

SHRI GURUDAS DAS GUPTA: It is ignorance...(*Itnerruptions*)...

THE DEPUTY CHAIRMAN: I am not concerned who is ignorant and who is knowledgeable. I am only concerned with the bell ringing.

SHRI GURUDAS DAS GUPTA: The bell is ringing for someone else.

...(*Interruptions*)...

THE DEPUTY CHAIRMAN: Mr. Das Gupta, now you spoke. Can's you sit in peace?

SHRI VISHVJIT P. SINGH: That was a very unfortunate remark which was made by Mr. Das Gupta.

THE DEPUTY CHAIRMAN: What was that?

SHRI VISHVJIT P. SINGH: It was a very bad remark which was made by Mr. Das Gupta, which is against all the retiring Members...(*Interruptions*)...He is making fun of the Members who are retiring...(*Interruptions*)...

SHRI GURUDAS DAS GUPTA: Who has said it? He makes a wrong thing...(*Interruptions*)...

THE DEPUTY CHAIRMAN: Order, order, please. Even Mr. Das Gupta is retiring, technically.

SHRI VISHVJIT P. SINGH: He is making fun of those who are retiring.

...(*Interruptions*)...

THE DEPUTY CHAIRMAN: Order, please. I want to tell the Members that technically Mr. Das Gupta is retiring. So, if he makes fun of anybody, then he makes it on himself. When he is reelected, until and unless he takes the oath, he won't be a Member. It may be for one day, half an hour or one hour. But he is retiring, technically.

SHRI MENTAY PADMANABHAM: It is a cut-off date for him also!

SHRI VISHVJIT P. SINGH: Madam, you have brought sense to the House, as usual. That keeps everybody happy.

THE DEPUTY CHAIRMAN: Because agitation and anger do not make sense. It is better to run the House and to speak with a smile.

Now I shall put Mr. Gurudas Das Gupta's amendment to vote. The question is—

"That at page 2, line 12, *after* the figure "1992" the words "or even thereafter be *inserted.*

The House divided.

THE DEPUTY CHAIRMAN:

Ayes—19

Noes—63

Balanandan, Shri E.
Bhattacharya, Prof. Saurin
Chellappa, Shri V. Rajan
Das Gupta, Shri Gurudas
Ganesan, Shri Misa R.
Giri Prasad, Shri N.
Goswami, Shri Ramnarayan
Maheshwari, Shrimati Sarala
Maui, Shri S. Muthu
Md. Salim, Shri
Mohanty, Shri Sarada
Padmanabham, Shri Mentay
Pillai, Shri Ramachandran
Saqhy, Shri T. A. Mohammed
Singh, Shri W. Kulabidhu
Sinha, Shrimati Kamla
Sivaji, Dr. Yelamanchili
Veerappan, Shri K. K.
Viduthalai Virumbi, Shri S.

Noes—63

Adik, Shri Govindrao
Ahluwalia, Shri S. S.
Alva, Shrimati Margaret
Antony, Shri A. K.

Barongpa, Shri Sushil
Bhandare, Shri Murlidhar Chandrakant
Bhardwaj, Shri Hansraj
Bhatia, Shri Madan
Birla, Shri Krishna Kumar
Chavan, Shri S. B.
Chowdhury, Shrimati Renuka
Dard, Shri Jagir Singh
Desai, Shri Jagesh
Dhawan, Shri R. K.
Dutta, Dr. B. B.
Faguni Ram, Dr.
Fernandes, Shri John F.
Ghufran Azam, Shri
Hanumanthappa, Shri H.
Hariprasad, Shri B. K.
Hiphei, Shri
Iqbal Singh, Shri
Jayadevappa, Shri K. R.
Jogi, Shri Ajit P. K.
Kailashpati, Shrimati
Kalmadi, Shri Suresh
Kalyan, Shri Mohindar Singh
Khaparde, Miss Saroj
Kore, Shri Prabhakar B.
Korwar, Shri Gundappa
Lenka, Shri Kanhu Charan
Madni, Maulana Asad
Mahendra Prasad, Shri
Majumdar, Shri Sudhir Rajan
Malaviya, Shri Radhakishan
Manmohan Singh, Shri
Mishra, Shri Shiv Pratap
Mohammad Yunus, Shri
Mukherjee, Shri Pranab
Narayanasamy, Shri V.
Pachouri, Shri Suresh
Parmar, Shri Rajubhai A.
Patel, Shri Vithalbhai M.
Patil, Shri Shivajirao Giridhar
Pillai, Shri Thennala Balakrishna
Ramachandran, Shri S.K.T.
Rao, Shri V. Rajeshwar
Rathwa, Shri Ramsinh
Razi, Syed Sibtey
Reddy, Shri T. Venkatram
Sahu, Shri Santosh Kumar
Sanadi, Prof. I. G.
Sarma, Shrimati Basanti
Satchidananda, Shri
Satya Bahin, Shrimati
Shinde, Shri Sushilkumar Sambhajirao
Singh, Shri Vishvjit P.
Singla, Shri Surinder Kumar
Surjewala, Shri S. S.
Thakur, Shri Rameshwar
Verma, Shrimati Veena
Yadav, Shri Ram Naresh
Yadava, Shri Bal Ram Singh
Yonggam, Shri Nyodek

The motion was negatived.

THE DEPUTY CHAIRMAN: Now, the question is:

That clause 3 stand part of the Bill.

The motion was adopted.

Clause 3 was added to the Bill

Clauses 4 to 6 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill

SHRI M. V. CHANDRASHEKHAR MURTHY: Madam, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

I. RESOLUTION SEEKING DISAPPROVAL OF THE COFFEE (AMENDMENT) ORDINANCE, 1994, (NO. 1 OF 1994) PROMULGATED ON 14TH JANUARY, 1994.

II. THE COFFEE (AMENDMENT) BILL, 1994

THE DEPUTY CHAIRMAN: Thank you very much. Now after a very strenous discussion on the courts, we have to have some 'coffee' and I put it before